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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
Plaintiff,)	Case No.: CV
)	
)	COMPLAINT
vs.)	(JURY TRIAL DEMANDED)
)	
)	
SOUTHWESTERN FURNITURE OF)	
WISCONSIN, LLC, a Wisconsin LLC,)	
d/b/a Ashley Furniture Homestores,)	
Defendant.)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and retaliation, and to provide appropriate relief to Jill Vanderploeg, who was adversely affected by such practices during her employment by Southwestern Furniture of Wisconsin, LLC, doing business as Ashley Furniture Homestores ("Ashley"). The Commission alleges that Defendant transferred Jill Vanderploeg to a less desirable work location because of her sex, female, and because she opposed the unlawful employment practices of Defendant, when she complained about what she reasonably believed was sexual harassment. The Commission further alleges that Defendant suspended Ms. Vanderploeg without pay for approximately five days because

1 she opposed the unlawful employment practices of Defendant when she complained
2 about sexual harassment.

3 **JURISDICTION AND VENUE**

4 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331,
5 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section
6 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.
7 §2000e-5 (f)(1) and(3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42
8 U.S.C. §1981a.

9 2. The employment practices alleged to be unlawful were committed within
10 the jurisdiction of the United States District Court for the District of Arizona.

11 **PARTIES**

12 3. Plaintiff, the Equal Employment Opportunity Commission (the
13 "Commission"), is the agency of the United States of America charged with the
14 administration, interpretation and enforcement of Title VII, and is expressly authorized to
15 bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and
16 (3).

17 4. At all relevant times, Defendant Ashley, a Wisconsin LLC, has
18 continuously been doing business in the State of Arizona, including the Cities of Mesa
19 and Chandler, and has continuously had at least 15 employees.

20 5. At all relevant times, Defendant Ashley has continuously been an employer
21 engaged in an industry affecting commerce within the meaning of Sections 701(b), (g)
22 and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

23 **STATEMENT OF CLAIMS**

24 6. More than thirty days prior to the institution of this lawsuit, Jill
25 Vanderploeg filed a charge with the Commission alleging violations of Title VII by
26 Defendant Ashley. All conditions precedent to the institution of this lawsuit have been
27 fulfilled.
28

1 7. Jill Vanderploeg complained internally about sexual harassment on or
2 about June 10, 2006 to management officials of the Defendant. Ms. Vanderploeg was
3 suspended the same day she complained about what she reasonably believed was sexual
4 harassment without pay for approximately five days during the investigation of her sexual
5 harassment complaint.

6 8. Defendant has a policy or practice of suspending employees without pay
7 when they complain about sexual harassment.

8 9. On or about June 15, 2006, Defendant involuntarily transferred Jill
9 Vanderploeg from the Superstition Store to the Chandler Store. The Chandler store
10 required a longer commute for Ms. Vanderploeg and resulted in lower commissions
11 earned for Ms. Vanderploeg.

12
13 **FIRST CLAIM: SEX DISCRIMINATION**

14 10. Since at least June 2006, Defendant Ashley has engaged in unlawful
15 employment practices at its Mesa, Arizona and Chandler, Arizona facilities in violation
16 of Section 703(a) of Title VII, 42 U.S.C. §§2000e-2(a). These practices include the
17 transfer of Jill Vanderploeg to a less desirable work location because of her sex, female.

18
19 **SECOND CLAIM: RETALIATION**

20 11. Since at least June 2006, Defendant Ashley has engaged in unlawful
21 retaliatory employment practices at its Mesa, Arizona and Chandler, Arizona facilities
22 facility in violation of 704(a) of Title VII, 42 U.S.C. §§2000e-3(a). These retaliatory
23 employment policies or practices include suspending Jill Vanderploeg for approximately
24 five days without pay and involuntarily transferring to a less desirable work location and
25 because she expressed opposition to and made complaints about unlawful employment
26 practices.
27
28

1 12. The effect of the practices complained of in paragraphs 7-11 above has
2 been to deprive Jill Vanderploeg of equal employment opportunities and otherwise
3 adversely affect her status as an employee, because of her sex, female.

4 13. The effect of the practices complained of in paragraph 7-11 above has been
5 to deprive Jill Vanderploeg of equal employment opportunities and otherwise adversely
6 affect her status as an employee because of her opposition to unlawful employment
7 practices.

8 14. The unlawful employment practices complained of in paragraphs 7 through
9 11 above were intentional.

10 15. The unlawful employment practices complained of in paragraphs 7 through
11 11 above were done with malice and/or with reckless indifference to the federally
12 protected rights of Jill Vanderploeg.

13 **PRAYER FOR RELIEF**

14 Wherefore, the Commission respectfully requests that this Court:

15 A. Grant a permanent injunction enjoining Defendant Ashley, its officers,
16 successors, assigns, and all persons in active concert or participation with it, from
17 engaging in any employment practice which discriminates on the basis of sex.

18 B. Grant a permanent injunction enjoining Defendant Ashley, its officers,
19 successors, assigns, and all persons in active concert or participation with it, from
20 engaging in any employment practice which discriminates or retaliates against any
21 individual because of the individual's opposition to perceived unlawful employment
22 practices and/or because the individual filed a charge, testified, assisted, or participated in
23 an investigation or proceeding under Title VII.

24 C. Order Defendant Ashley to institute and carry out policies, practices, and
25 programs which provide equal employment opportunities for women and those who
26 oppose unlawful employment practices and/or file charges, testify, assist or participate in
27 an investigation or proceeding under Title VII, and which eradicate the effects of its past
28 and present unlawful employment practices.

1 D. Order Defendant Ashley to make whole Jill Vanderploeg, by providing
2 appropriate backpay with prejudgment interest, in amounts to be determined at trial, and
3 other affirmative relief necessary to eradicate the effects of its unlawful employment
4 practices, including, but not limited to, reinstatement.

5 E. Order Defendant Ashley to make whole Jill Vanderploeg, by providing
6 compensation for past and future pecuniary losses resulting from the unlawful
7 employment practices described in paragraphs 7 through 12 above, in amounts to be
8 determined at trial.

9 F. Order Defendant Ashley to make whole Jill Vanderploeg, by providing
10 compensation for past and future nonpecuniary losses resulting from the unlawful
11 practices complained of in paragraphs 7 through 11 above, including but not limited to
12 emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and
13 humiliation, in amounts to be determined at trial.

14 G. Order Defendant Ashley to pay Jill Vanderploeg punitive damages for its
15 malicious and reckless conduct described in paragraphs 7 through 11 above, in amounts
16 to be determined at trial.

17 H. Grant such further relief as the Court deems necessary and proper in the
18 public interest.

19 I. Award the Commission its costs of this action.

20 **JURY TRIAL DEMAND**

21 The Commission requests a jury trial on all questions of fact raised by its
22 complaint.

23 DATED this 15th day of May, 2008.

24 RONALD COOPER
25 General Counsel

26 GWENDOLYN REAMS
27 Associate General Counsel

28 EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

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